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JUN 04 2007

In re Application of:
ADDINGTON, RANDALL A. et al.
Serial No.: 09/396,531
Filed: Sep. 15; 1999
Docket: 99-1001
Title: BOWLERS FINGER PAD SHIELD

DECISION ON PETITION

This is a decision on the petition filed on Mar. 7, 2005 to cancel the final Office action of Jan. 26, 2005 and for the applicant's Appeal Brief be sent to the examiner for completion of an examiner's answer. The petition is being considered pursuant to 37 CFR 1.181. No fee is required. The applicant may file a request for refund of the \$400.00 petition fee. The delay of this decision on petition is regretted.

The petition is **DISMISSED as moot.**

In the petition, the applicant requested that the final Office action of Jan. 26, 2005 be canceled, the appeal brief be immediately sent to the examiner for immediate completion of an examiner's answer and that the petition fee be refunded.

The record shows that:

- 1) In response to the final Office action of Jun. 18, 2003, the applicant filed an after final response under 37 CFR 1.116 on Jun. 25, 2003.
- 2) On Jun. 26, 2003, the applicant filed a petition under 37 CFR 1.181 requesting that the application be removed from examination within Group 3700 and that the final Office action dated Jun. 18, 2003 be expunged from the record and a new action be prepared in its place.
- 3) On Oct. 2, 2003, a decision on petition was rendered. In the decision on petition, the petition of Jun. 26, 2003 was granted-in-part. The decision on petition of Oct. 2, 2003 granted the applicant's request to expunge and vacate from the record the Office letter dated Jun. 18, 2003. The petition decision of Oct. 2, 2003 denied the request to remove the application from Group 3700.
- 4) On Oct. 8, 2003, the applicant filed a petition under 37 CFR 1.181 requesting that the decision on petition filed Jun. 26, 2003 be vacated.
- 5) On Oct. 24, 2003, the applicant filed an appeal brief.
- 6) On Oct. 27, 2003, the applicant filed an supplemental appeal brief of a claim appendix

which was not included with the appeal brief filed Oct. 24, 2003.

- 7) On Jul. 30, 2004, a decision on petition was rendered on the petition request dated Oct. 8, 2003. The decision on petition denied the applicant's request to vacate the decision of the Technology Center Director dated Oct. 2, 2003.
- 8) On Jan. 26, 2005, the examiner issued a final Office action which replaced the final Office action dated Jun. 18, 2003 which had been expunged from the record.
- 9) On Mar. 7, 2005, the applicant filed the current request to cancel the final Office action of Jan. 26, 2005 and for the applicant's Appeal Brief be sent to the examiner for completion of an examiner's answer.
- 10) In response to the final Office action of Jan. 26, 2005, the applicant filed an after final response under 37 CFR 1.116 on Mar. 15, 2005. In the after final response, the applicant acknowledged that the Jan. 26, 2005 final Office action was the same as the Office action of Jun. 18, 2003 except for non-substantive remarks which has been removed (the June 18, 2003 Office action has been expunged from the record). In the after final response the applicant requested that the final Office action of Jan. 26, 2005 be withdrawn and that the appeal brief be answered.
- 11) On Jun. 8, 2005, the examiner issued an advisory action and for purposes of appeal agreed to enter the after final response filed Mar. 15, 2005.
- 12) On Aug. 4, 2005, the applicant filed an appeal brief.
- 13) On Mar. 14, 2007, the examiner issued an examiner's answer in response to the appeal brief filed Aug. 4, 2005.

In view of the prosecution history, the relief the applicant requested, namely the canceling of the final Office action of Jan. 18, 2003 and the applicant's appeal brief be immediately sent to the examiner for immediate completion of an examiner's answer has already occurred. The examiner's answer dated Mar. 14, 2007 in effect was based on the new final Office action of Jan. 26, 2005. In addition, the examiner's answer of Mar. 14, 2007 has considered the applicant's appeal brief. Accordingly, the petition is dismissed as moot.

Any inquiry regarding this decision should be directed to Marc Jimenez, Training Quality Assurance Specialist, at (571) 272-4530.



Karen Young, Director
Technology Center 3700